

Attorney's Locker No.: 12587-007001

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Marc F. Hayes, Jr. et al.

Art Unit : 3625

Serial No. : 09/876,563

Examiner : Robert E. Rhode

Filed : June 7, 2001

Title : CUSTOMER MESSAGING SERVICE

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MAY 27 2003

PETITIONS OFFICE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

PETITION UNDER 37 CFR §1.182

Applicants petition to have their filing of a Request to Rescind Previous Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(ii) filed on August 2, 2002 on Form PTO/SB36 (11-00) ("the original Request Form")<sup>1</sup> considered the notice of a subsequent foreign or International filing required by 35 U.S.C. 122(b)(2)(B)(iii) ("the Statute").

Requirements on the form of notice are clearly missing from the Statute, and the imposition of requirements on the form of notice are not supported. The Statutory requirement for notice should therefore be met by many forms of notice, including Applicant's act of filing the original Request Form furnished by the United States Patent and Trademark Office ("the Office").

This interpretation of notice under the Statute is entirely consistent with the interpretation taken by the Office in an updated version of the Form PTO/SB36 ("updated Request Form")<sup>2</sup>. Specifically, in the updated Request Form, the following Note is provided to recognize the act of filing a Request Form as being sufficient to satisfy the Statutory notice requirement:

Note: Filing this recission of a previous nonpublication request is considered the notice of a subsequent foreign or International filing required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 C.F.R. 1.231(c) if this recission is filed no later than forty-five (45) days after the date of filing of such foreign or international

<sup>1</sup> See Appendix A for a copy of Form PTO/SB36 (11-00).

<sup>2</sup> See Form PTO/SB36 (10-01) at Appendix B.

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## CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

May 27, 2003

Date of Transmission

Signature

Terri L. Knox

Typed or Printed Name of Person Signing Certificate